

Chapter 2. Decision-Making, Administration & Enforcement Responsibilities

155.201. General Provisions.

The administration of this Title is vested in the following:

- A. The Town Planning Director;
- B. The Town Zoning Administrator;
- C. The Town Public Works Director;
- D. The Town Engineer;
- E. The Town Floodplain Administrator;
- F. The Town Storm Water Administrator;
- G. The Plan Review Committee;
- H. The Town Board of Adjustment;
- I. The Town Planning Board;
- J. The Town Board of Commissioners (Town Mayor and Commissioners, or Town Council).
- K. Mecklenburg County Land Use and Environmental Services Agency (LUESA); and,
- L. Mecklenburg County Code Enforcement Division

Each group or individual identified here as a Town role means the Town of Matthews has authorized a specific position to take on that particular responsibility, whether or not the position is a direct Town of Matthews employee. When an individual position is identified, either the person holding that position or an authorized designee may perform the assigned functions, unless a specific professional qualification is necessary, such as possession of a PE license.



Each group or individual identified here as a Town role means the Town of Matthews has authorized a specific position to take on that particular responsibility, whether or not the position is a direct Town of Matthews employee. When an individual position is identified, either the person holding that position or an authorized designee may perform the assigned functions, unless a specific professional qualification is necessary, such as possession of a PE license.

155.202. The Town Planning Director

- A. DESIGNATION. Except as specifically provided otherwise in this Title, the Town Planning Director is assigned the primary responsibility for administering and enforcing this Title. Any of these responsibilities may be assigned to others, including Town staff members within the Planning and Development Department (the Planning Office), and Mecklenburg County LUESA or Code Enforcement Division by interlocal agreement, as determined necessary.
- B. DUTIES OF THE TOWN PLANNING DIRECTOR. The Town Planning Director or designees shall have the following duties and responsibilities with respect to this Title:
 - 1. To consider and approve, approve with conditions, or disapprove:
 - a. Applications for administrative amendments as provided at § 155.401.5.A.1.
 - b. Landscape plans, exterior illumination plans, and zoning overlay district compliance plans.
 - c. Site plans, elevation plans, material or color selections, etc., as required by this Title or through site-specific conditions for zoning approval.

- d. Applications for temporary use permits
 - e. Applications for zoning compliance for certificates of occupancy.
 - f. Sign permits (temporary and permanent).
- 2. To consider and make recommendations to the Town Council to adopt ordinances to amend the text of this Title and the Official Zoning Map.
 - 3. To establish application requirements and schedules for review of applications for zoning changes, text amendments to sections within this Title, development plans, master sign plans, and subdivisions, and provide oversight to review and approval procedures which involve other Town departments or outside agencies.
 - 4. To serve as Chair of the Plan Review Committee and coordinate all reviews and communications regarding proposed and pending subdivisions.
 - 5. To review and make recommendations to the Planning Board, Board of Adjustment and/or Board of Commissioners on all applications for development considered by those boards, and take any other actions necessary to administer the provisions of this Title.
 - 6. To provide expertise and technical assistance to the Board of Commissioners, Planning Board, and Board of Adjustment upon request.
 - 7. Receive and process applications for zoning permits for structures or additions for which building permits are required.
 - 8. Receive and process applications for zoning permits not accompanied by an application for a building permit.
 - 9. Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use to ensure conformity to the provisions of this Title.
 - 10. Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.
 - 11. Maintain in current status the Official Zoning Map.
 - 12. Verify that permanent and current records as required by this Title are maintained, including, but not limited to, zoning permits, certificates of occupancy, inspections, all official action on appeals, variances, and amendments, and registrations for items requiring placement on the land such as temporary signs or temporary storage units.
 - 13. Provide on request to the public printed or digital copies of the Zoning Map or Maps, the compiled text of this Title, and the minutes of the Planning Board and Board of Adjustment meetings. The Board of Commissioners may establish a fee to be charged to any person desiring a copy of such text and/or map to defray the cost of publication or reproduction of such text and/or map.
 - 14. Furnish members of the public with forms for appeals and interpretations, applications for variances to be heard by the Board of Adjustment, and receive on behalf of the Board of Adjustment all such forms, when completed and executed by the appellant or applicant, or his agent or attorney.
 - 15. Refer any violation of this Title to the Town Attorney for prosecution or other appropriate action when deemed necessary.

155.203. The Town Zoning Administrator

- A. DESIGNATION. The Town Zoning Administrator shall mean the person, agent, or his or her designees, designated by the Town Manager to administer the provision of zoning authority as provided by state statutes and Chapters 1 thru 6, inclusive, of this Title.

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- B. DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator or his designated assistant shall administer and enforce Chapters 1 thru 6, inclusive, of this Title. It shall be the duty of the Zoning Administrator to:
1. To render interpretations of all provisions of the zoning regulations in Chapters 1 thru 6, inclusive, of this Title, including interpretations of the text; interpretation of the zoning district boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zoning district.
 2. To provide written interpretation for all zoning variance applications prior to a hearing before the Board of Adjustment that a requested action would not be in compliance with existing zoning provisions without the granting of a zoning variance.

155.204. The Town Public Works Director and Town Engineer

- A. DESIGNATION OF THE PUBLIC WORKS DIRECTOR. The Town Public Works Director shall mean the person, agent, or his or her designees, designated by the Town Board of Commissioners to, among other duties and responsibilities implement and enforce the standards and procedures in Chapter 7 of this Title.
- B. DUTIES OF THE PUBLIC WORKS DIRECTOR. With regard to this Title the Public Works Director shall have responsibility for implementing and enforcing the standards and procedures in Chapter 7 of this Title.
- C. TOWN ENGINEER. The Town Engineer is a specific employee within the Town Public Works Department, and as such, shall often serve as the agent or designee of the Public Works Director on many elements related to any new development or redevelopment activities.

155.205. The Floodplain Administrator

- A. DESIGNATION. Through a properly executed, legally binding interlocal agreement, the Town Manager designates the Mecklenburg County Floodplain Administrator, and his or her designees, as the person(s) with the authority to administer, implement and enforce the provisions of Chapter 9, Floodplain Regulations, of this Title. **[formerly known as § 151.15 and deleted from Chapter 9]**
- B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties: **[formerly known as § 151.17 and deleted from Chapter 9]**
1. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of Chapter 9 of this Title have been satisfied.
 2. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
 3. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
 4. Notifying adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
 5. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered watercourse so that the flood-carrying capacity is maintained.
 6. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of § 155.905 are met.

7. Reviewing and recording the actual elevation (in relation to mean sea level) of the Reference Level (including basement) of all new or substantially improved structures, in accordance with § 155.905.B.2.c.
8. Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been flood-proofed, in accordance with § 155.905.B.1.c.
9. Obtaining certifications from a registered professional engineer or architect in accordance with § 155.905.B.1.b when flood-proofing is utilized for a particular nonresidential structure.
10. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).
11. RECORDS MAINTENANCE. Permanently maintain all records that pertain to the administration of Chapter 9 of this Title and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
12. MAKING ON-SITE INSPECTIONS OF WORK IN PROGRESS. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local regulations and the terms of the permit.
13. Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
14. Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA).
15. Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.
16. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
17. NEW CONSTRUCTION DETERMINATION. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute new construction for purposes of Chapter 9.
18. Reviewing and approving FEMA Conditional Letters of Map Revision and FEMA Final Letters of Map Revision if Authorized by FEMA to do so.
19. ISSUING STOP-WORK ORDERS. Whenever a building or part at a building is being constructed, reconstructed, altered or repaired in violation of Chapter 9, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
20. REVOKING FLOODPLAIN DEVELOPMENT PERMITS. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked

for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing re-submittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.

21. MAKING PERIODIC INSPECTIONS. The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
22. Providing owners of structures in the floodplain with information concerning their flood risk, and (for structures with the lowest floor below the Flood Protection Elevation) inform potential buyers of substantial improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.

155.206. The Town Storm Water Administrator

- A. DESIGNATION. The Town Storm Water Administrator shall mean the person, agent, or his or her designees, designated by the Town Manager, which may be through a properly executed, legally binding interlocal agreement, to administer, implement and enforce the provisions of Chapter 8, Post Construction Regulations, (the “PCO”) of this Title.
- B. DUTIES OF THE STORM WATER ADMINISTRATOR. In addition to the powers and duties that may be conferred by other provisions of the Town Code of Ordinances and other laws, the Storm Water Administrator shall have the following powers and duties pertaining to the Post Construction Regulations in Chapter 8 of this Title:
 1. To review and approve or disapprove applications submitted pursuant to the PCO.
 2. To make determinations and render interpretations of the PCO.
 3. To establish application requirements and schedules for submittal and review of applications and appeals.
 4. To enforce the PCO in accordance with its enforcement provisions.
 5. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of the PCO.
 6. To provide expertise and technical assistance upon request to the Matthews Board of Commissioners and the Storm Water Advisory Committee (SWAC).
 7. To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.
 8. To provide information and recommendations relative to variances and information as requested by SWAC in response to appeals.
 9. To take any other action necessary to administer the provisions of the PCO. **[formerly known as § 154.021 and deleted in Chapter 8]**

155.207. The Plan Review Committee

- A. MEMBERSHIP. The Plan Review Committee shall consist of one or more staff members from Town departments, as appropriate, and staff members from Mecklenburg County Land Use and

Environmental Services Agency. The Planning Director or the Planning Director's designee shall serve as the Chair of the Plan Review Committee.

- B. DUTIES OF THE PLAN REVIEW COMMITTEE. The Plan Review Committee shall review, consider, and make recommendations to approve, approve with conditions, or disapprove sketch plans for minor and major subdivisions, preliminary plans for major subdivisions, and, final plats for minor and major subdivisions as needed, and as further explained in Chapter 4. The Plan Review Committee Chair shall be responsible for coordinating any review sessions and collecting/distributing any communications between members and to applicants.

155.208. The Town Board of Adjustment

- A. ESTABLISHMENT AND ORGANIZATION. The Town Board of Adjustment is hereby established. The Board of Adjustment will consist of five (5) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be three (3) alternate members who are Town citizens and residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one (1) or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Board of Adjustment members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term.
- B. RULES OF PROCEDURE. The Board of Adjustment will adopt rules and regulations for its own operation necessary to carry out the provisions of this Title. The Town Planning and Development Department will maintain copies of the adopted rules for public information.
- C. DUTIES OF THE BOARD. The Board of Adjustment shall have the following duties:
1. VARIANCE OF CHAPTERS 1 THRU CHAPTER 6, INCLUSIVE.
 - a. Following a determination by the Zoning Administrator that a requested action is not in compliance with the zoning provisions of Chapters 1 thru 6, inclusive, of this Title, the Board of Adjustment will hear and determine variances from the requirements which relate to the establishment or extension of structures or uses of land. The Board may not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension of a nonconforming use, or would change the district boundary or zoning classification of the property in question.
 - b. In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria.
 - i. Unnecessary hardship would result from the strict application of the Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - iv. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

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2. VARIANCE OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide petitions for variances from the requirements of Chapter 9 of this Title, as further explained at § 155.904.
 3. ADMINISTRATIVE APPEAL. The Board of Adjustment will hear and decide appeals on any determination, order, requirement, or decision made by the Zoning Administrator or code enforcement official. A request for appeal must be complete, and must be submitted to the Town within thirty (30) days of the date of notice of violation, order, or decision.
 4. APPEAL OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding the regulations of Chapter 9 of this Title as further explained at § 155.904.
 5. APPEAL OF MINIMUM HOUSING REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination, or interpretation made by Mecklenburg County Code Enforcement (the Building Inspector) pursuant to or regarding the regulations of Chapter 10 of this Title as further explained at § 155.1005.
 6. INTERPRETATION OF CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE. The Board of Adjustment is responsible for interpreting the provisions in Chapter 1 thru Chapter 6, inclusive, of this Title relating to zoning regulations if there is a question about the meaning or application of a provision. Once the Board has made an interpretation on an issue, the Zoning Administrator will use that interpretation in the administration of this Title. The Board may also ask that the Title be amended to clarify a problem that has come to the Board's attention.
 7. The Chair, or vice-chair in the absence of the Chair, may subpoena witnesses and compel the production of evidence.
- D. QUASI-JUDICIAL HEARINGS. The Board of Adjustment will hold a quasi-judicial hearing on any variance, appeal, or interpretation request which comes before it. All administrative papers and other information relating to the request shall be transmitted to the Board. Notice of the time, place and subject of hearings shall be given to the persons making the request and to the owners of property that adjoins or is directly across a street or alley from the property involved in the hearing. The Board shall keep minutes of its hearings and records of the votes of each member.
- E. ACTIONS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment will decide on a zoning variance, appeal, or interpretation request and on any matter upon which it is required to act under this Title. The decision of the Board shall be documented in the minutes or transcript of the meeting which shall record a motion to approve, approve with conditions, or disapprove. The motion shall be supported with findings of fact and conclusions of law placed in the minutes of the meeting. A majority vote of the members of the Board will be required to override a decision of the Zoning Administrator or a code enforcement official charged with enforcement of this Title or to decide in favor of the persons making an appeal. The concurring vote of four fifths (4/5) majority shall be required to grant a variance request.
- F. FILING APPLICATIONS AND FEES. Applications and related documents for zoning variance, appeal, or interpretation requests to be considered by the Board of Adjustment must be filed with the Town Planning office as further explained at § 155.403.2, and accompanied by the necessary application fee as established by the Town Commissioners. The Town Planning office shall determine the application is complete and ready to be sent to the Board of Adjustment for review.

155.209. The Town Planning Board

- A. ESTABLISHMENT. The Town Planning Board is authorized and established under the authority of G.S. Chapter 160A- 361 to perform the functions and duties prescribed by the General Statutes.
- B. APPOINTMENT, TERMS, AND ORGANIZATION. The Town Planning Board will consist of seven (7) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be two (2) alternate members who are Town citizens and

- residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Planning Board members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term. Further, all members shall be appointed to terms of two (2) years staggered so that terms overlap.
- C. **COMPENSATION.** All members of the Planning Board shall serve without compensation.
 - D. **REMOVAL AND VACANCIES.** Members may, after a public hearing, be removed by the Board of Commissioners for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file a written statement of reasons for the removal. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the Board of Commissioners.
 - E. **OFFICERS.** At the first meeting following appointment of new members each year, the Planning Board shall elect its Chair and Vice-Chair from among the appointed citizen members and create and fill any other offices as it may determine. The term of office for the Chair and Vice-Chair shall be one year.
 - D. **MEETINGS AND RULES.** The Planning Board shall hold at least one regular meeting in each month which shall be open to the public. It shall adopt rules for transaction of business and shall keep records of its resolutions, transactions, findings and determinations, which records shall be a public record.
 - E. **CONFERENCES.** Members of the Planning Board may attend city planning conferences or meetings of city planning institutes or hearings on pending city planning legislation.
 - F. **GENERAL POWERS AND DUTIES.** It shall be the primary function and duty of the Planning Board to study, review, and make recommendations regarding the physical development of the Town, including community goals and vision statements, long-range comprehensive plans, small area plans, strategic plans, zoning regulations, location of zoning district designations, subdivision regulations, energy efficiency measures, and related activities as allowed by state statute and authorized by the Board of Commissioners. In the course of completing these duties, the Planning Board may develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans, and may advise the Board of Commissioners on their rationale for recommendations. The Planning Board may recommend amendments, extensions or additions to previously adopted plans. [formerly § 33.15-33.22]

155.210. The Town Board of Commissioners (Mayor and Commissioners, or Town Council)

Without limiting any authority granted to the Mayor and Board of Commissioners by state law or by other ordinances of the Town, the Board of Commissioners have all of the powers and duties with respect to this Title conferred on it by the General Statutes. The Board of Commissioners, or Town Council, includes the Mayor and six (6) Commissioners.

155.211. Mecklenburg County Land Use and Environmental Services Agency (LUESA)

- A. **DESCRIPTION.** Mecklenburg County Land Use and Environmental Services Agency (LUESA) is a department of Mecklenburg County responsible for administering and enforcing regulations affecting new development and protecting air and water resources in Mecklenburg County.
- B. **DUTIES OF MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY.** Mecklenburg County Land Use and Environmental Services Agency shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:
 - Receive and process applications for grading permits, building permits, sign permits, change of use permits, temporary use permits, and similar requests for land disturbing activities, including any related plan review.

Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

155.212. Mecklenburg County Code Enforcement Division

- A. DESCRIPTION. Mecklenburg County Code Enforcement Division is a department of Mecklenburg County responsible through interlocal agreement for providing technical expertise on building code criteria, conducting plan review, conducting inspections, and administering and enforcing regulations affecting new development, redevelopment, maintenance and repair, and improvement of structures, buildings, and real property to obtain compliance with all applicable local, state, and federal building codes in Mecklenburg County.

- B. DUTIES OF MECKLENBURG COUNTY CODE ENFORCEMENT DIVISION. Mecklenburg County Code Enforcement Division shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:

Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

Conduct inspections of structures to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

Conduct inspections and administer minimum housing provisions as enumerated in Chapter 10 of this Title.

155.213. Compliance Documents

It shall be illegal for any person to begin the construction or reconstruction of any structure or any part of a structure, or to begin to remove trees, excavate or grade for a structure or land improvement, or any other land disturbing activity, or to make any structural repairs, alterations, or additions to any structure without obtaining any and all appropriate compliance documents from the office or agent authorized by the Matthews Board of Commissioners to issue such permits and documents. The office or agent authorized by the Matthews Board of Commissioners will not issue such documents unless the plans, specifications, and intended use of the structure and property conform to the requirements of this Title. The application for compliance documents shall be accompanied by information sufficient to allow the office or agent to act on the request.

- A. INITIAL SITE PLAN COMPLIANCE DOCUMENTS. One (1) or more site layout documents may apply to each lot or tract prior to any development activity. These initial site plan documents grant opportunity to proceed with preconstruction aspects, and may include approved conditional zoning site plans, elevation plans, landscape plans, lighting plans, and/or zoning overlay compliance plans, all of which shall be coordinated through the Matthews Planning office (whether staff approval or Board of Commissioners approval is necessary for each). These approved plans shall be adhered to and submitted when requested with subsequent data to Mecklenburg County LUESA and/or Code Enforcement in all following steps in the development review and approval process.
- B. GRADING/INFRASTRUCTURE IMPROVEMENTS PERMITS. Any proposed land disturbing activity that will include any grading, removal of trees and existing vegetative ground cover, removal of existing structures, buildings, and/or impervious surfaces, or any on-site work that may impact soil erosion or will take place close to a protected tree, shall not commence until all appropriate approvals and permits are issued by Mecklenburg County LUESA. When any driveway permit or

- right-of-way encroachment permit is necessary, they shall be obtained from Matthews Public Works and/or North Carolina Department of Transportation, as appropriate.
- C. **STRUCTURAL/MECHANICAL BUILDING PERMITS.** When any structure or building is proposed for a site, all applicable building permits and inspections shall be successfully obtained from Mecklenburg County Code Enforcement. Such building permits may be in addition to other required compliance documents. Approval of building permits shall be consistent with all the approved initial site plan documents necessary for the property.
- D. **ZONING PERMITS.** A zoning permit shall be required for any new use, change of use, temporary use, or similar activity on a lot or tract of land whether or not other permits and documents listed in this section are required. Zoning permits may be necessary for activities including but not limited to: a permanent sign; start-up of a home-based business; a day care home; a temporary business; application for an ABC permit; construction of a parking lot; or placement of a small storage building.
- E. **CERTIFICATES OF OCCUPANCY.** It shall be illegal to commence or change the use of any building or land, except for uses expressly exempted by federal, state or other local laws, until a Certificate of Occupancy has been issued by Mecklenburg County LUESA and/or Code Enforcement stating that the use complies with the requirements of this Title.
- F. **TIME LIMIT ON COMPLIANCE DOCUMENTS.** Any building permit or zoning permit issued pursuant to this Title will lapse and become invalid if the work for which it was issued is not started within six (6) months of the date of issue or if the work authorized by it is suspended or abandoned for one (1) year. [formerly known as § 153.306 and § 153.307]

155.214. Enforcement and Penalties

The provisions of this Title may be enforced by any one or more of the following methods, unless an alternate procedure is specifically indicated elsewhere in this Title.

- A. **EQUITABLE REMEDIES AND PROCEDURE.** The Town may apply for any appropriate equitable remedy to enforce the provisions of this Title. It is not a defense to the Town's application for equitable relief that there are other remedies provided under the general law or this Title.

The provisions of this Title may be enforced by injunction. When a violation of this Title occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Town may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

- B. **CIVIL PENALTIES AND PROCEDURE.** If, through inspection, it is determined that a person has failed to comply with the provisions of this Title, a Town or County code enforcement official may issue a warning citation to the violator, followed by citations of specific monetary fines as outlined below. These civil penalties are in addition to any other penalties imposed by a court for violation of the provisions of this Title.
1. **LENGTH OF WARNING CITATION.** Where violations are clearly of a temporary nature and could physically be immediately corrected, the violator shall be given a twenty four (24) hour warning citation. A twenty four (24) hour citation must be hand-delivered to a responsible representative for the violator, and that individual must sign that he/she has

received such citation. Where the violation can be generally believed to be corrected within a short time frame, and does not involve multiple persons' coordinated actions and/or require mechanical/vehicular tasks, the violator shall be given a three (3) day warning citation. Any other violation that may reasonably be expected to be corrected within a limited time period shall be given a ten (10) day warning citation. Delivery of a three (3) day or ten (10) day warning citation may be by hand-delivery, first class US mail, certified mail, and/or by conspicuously posting a print copy of the warning citation on the subject property. Warning citations may be sent to property owners and to occupants when they are different parties.

2. CITATION AMOUNTS. If the violation is not corrected within the specified time period, a citation subject to a fifty dollar (\$50.00) civil penalty may be issued. If the violation is not corrected within twenty four (24) hours, a second citation subject to a civil penalty up to two hundred dollars (\$200.00) for the same violation may be issued. Subsequent citations subject to a civil penalty up to five hundred dollars (\$500.00) may be issued for each day the violation is not corrected. Any citation not paid within fifteen (15) days of issuance shall have a ten dollar (\$10.00) delinquency charge added per citation to the amount listed on the face of the citation form.
 3. APPEAL OF WARNING CITATION. If an individual chooses to appeal a warning citation, they must do so in writing within seventy two (72) hours of the issuance of the warning citation to the Matthews Planning and Development Department. A written appeal will stay any monetary citations from being issued. In the case of a twenty four (24) hour warning, the written appeal must be submitted to the Matthews Planning and Development Department within twenty four (24) hours in order to stay any citations with fines. An initial request for appeal may be by letter; however an appeal to the Matthews Board of Adjustment must be fully completed and returned to the Matthews Planning and Development Department within ten (10) days of the warning citation. If a letter requesting appeal is submitted but the appeal to the Board of Adjustment is not completed and submitted in the required ten (10) days time, then citations in the amounts provided above may be issued as though no request for appeal had been initiated.
 4. CIVIL PENALTIES FOLLOWING A WRITTEN NOTICE OF VIOLATION. When a Notice of Violation is written by a Town or County enforcement officer, providing a thirty (30) day period to resolve the violation, and the violation remains at the conclusion of the thirty (30) days, then the Notice of Violation shall serve as the warning citation, and citations with monetary fines as provided in subparagraph 2 above may be issued. Because the written Notice of Violation includes the opportunity for appeal within the initial thirty (30) day period, there is no provision for further appeal. ('72 Code, § 24-3137.5) (Ord. 477, passed 2-8-88; Am. Ord. 591, passed 6-12-89; Ord. 1238, passed 3-11-02) **[formerly known as § 153.308]**
- C. CRIMINAL PENALTIES. Any person, firm, or corporation convicted of a violation of any provisions of this Title shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days. After notice of a violation is given, the violator will have thirty (30) days to correct the violation. After that time, each additional day that the violation remains will be considered a separate violation. ('72 Code, § 24-1203) (Ord. 477, passed 2-8-88; Am. Ord. 763, passed 11-2-92) **[formerly known as § 153.999]**
- D. CIVIL PENALTIES AND PROCEDURE FOR VIOLATIONS RELATED TO TEMPORARY USES. Because temporary business uses may set up and begin operations in a very short time frame and may not adhere to the requirements as provided in § 155.506.43, the following procedures and penalties are created for those situations.
1. WARNING OF VIOLATIONS; AUTHORITY TO ISSUE. The Zoning Administrator and the Code Enforcement Officer are empowered to issue warnings of violations to any person if there is a reasonable cause to believe that a person has violated any provision of § 155.506.43. These warnings of violation may be delivered in person to the violator, or, if the violator cannot be readily found, the warning of violation may be mailed to the last known address of the violator, or mailed or hand delivered to another individual participating

with the violator in the business on the site. Warnings of violations may be issued for the following:

- a. Conducting a temporary use without a temporary use permit. A temporary use permit must be obtained within five (5) calendar days of warning issue date.
- b. Conducting a temporary use on a property that is ineligible for a temporary use as required by § 155.506.43.B.4. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)
- c. Failure to cease business activities and to remove all business-related material from the property within the forty five (45) day time limit specified in § 155.506.43.B.2. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

2. CITATION. Compliance with § 155.506.43 may be enforced in any one or more of the following ways as prescribed by law.

- a. CITATION AND CIVIL PENALTY. A civil citation in the amount of one hundred dollars (\$100.00) may be levied against any person who violates any provision of § 155.506.43 and who has been issued a warning of violation and has not met the specified compliance. Additional citations in the amount of two hundred dollars (\$200.00) may be issued for the second day of violation and an additional citation in the amount of three hundred dollars (\$300.00) may be issued for a third day of violation and any subsequent days the violation continues to exist. Each and every day during which the violation continues shall be a separate and distinct offense.
- b. VIOLATION A MISDEMEANOR. If a violator fails to comply with the warning of violation, the Zoning Administrator or Code Enforcement Officer may have a complaint entered against the violator and have a criminal summons issued. Upon conviction, the violator shall be subject to criminal penalty up to five hundred dollars (\$500.00) and/or up to thirty (30) days in jail as the courts may allow. **[formerly known as § 153.191]**

- E. REMEDIES FOR DISTURBANCE, DESTRUCTION, OR REMOVAL OF VEGETATION AND REQUIRED LANDSCAPING. Any person, who violates any of the tree protection or landscaping provisions of § 155.606, or any Landscape Plan approved by the Town under prior Landscaping ordinance provisions, shall be subject to any one or combination of penalties prescribed in this § 155.214.

1. If a person fails to comply with any notice of violation, warning citation, or citation, as outlined above in § 155.214.A. through C., then the following penalties may be initiated. Any penalties shall be in addition to, and not in lieu of, compliance to all requirements and payment of any financial penalties.
2. Any act constituting a violation of § 155.606.13 Landscape Maintenance Standards resulting in the destruction, excessive pruning/topping, or removal of required vegetation up to twelve inches (12") DBH without approval from the Town shall be subject to a civil penalty of two dollars (\$2.00) per square foot for area damaged or destroyed, not to exceed fifty thousand dollars (\$50,000).
3. Destruction or removal of a tree greater than twelve inches (12") DBH without prior Town approval as provided at § 155.606.13.E. may be subject to a civil penalty equal to the amount of the value of the tree as listed in the most current edition of The Guide for Plant Appraisal, published by the International Society of Arboriculture in conjunction with the information provided by the Southern Chapter of the International Society of Arboriculture.

4. In the event that a Landscape Guarantee bond has not been posted and accepted by the Town and/or Mecklenburg County, and the developer and/or property owner has failed to plant the required trees and shrubs as depicted on the most current approved Landscape Plan, a ten (10) day warning citation as provided for in § 155.214.B. above, may be issued, indicating a fine of five hundred dollars (\$500.00) per tree or shrub not installed may be issued per day of ongoing violation, due within ten (10) days of day of issuance, not to exceed twenty thousand dollars (\$20,000) per day of violation. **[formerly portions of § 153.075(P)]**

F. Final Plats.

1. After the enactment date of this Title, a plat of a subdivision filed or recorded in the Mecklenburg County Register of Deeds office without approval of the Town as required by these regulations shall be null and void. No street shall be maintained by the Town, nor shall any permit be issued by an administrative agent of the Town for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements given in this Title have been fully met and the final plat has been approved.
2. Any property owner, agent of an owner, or other person, who transfers or sells land within the jurisdiction of the Town by reference to a plat showing a subdivision of land before that plat has received final Town approval and is recorded at the Register of Deeds, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or imprisonment not exceeding thirty (30) days, whether or not the unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring that land. The Town through the Town Attorney or other official designated by the Board of Commissioners, may enjoin the transfer or sale by action for injunction. These regulations shall not affect the sale or transfer of any land, a plat of which was recorded prior to November 9, 1998. **[formerly § 152.07]**